

FILED IN THE U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

NOV 23 2021

SEAN F. MCAVOY, CLERK  
DEPUTY  
YAKIMA, WASHINGTON

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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

LELAND JAMES FINLEY,

Defendant.

1:19-CR-02055-SMJ

Plea Agreement

Plaintiff United States of America, by and through Vanessa R. Waldref, United States Attorney for the Eastern District of Washington, and Michael D. Murphy, Assistant United States Attorney, for the Eastern District of Washington, and Defendant Leland James Finley (hereinafter "Defendant"), and the Defendant's counsel, Craig D. Webster, agree to the following Plea Agreement:

1. Guilty Plea and Maximum Statutory Penalties:

The Defendant agrees to plead guilty to the Indictment filed on November 13, 2019, charging the Defendant with Involuntary Manslaughter (Counts 1-4), in violation of 18 U.S.C. §§ 1153, 1112 and Assault Resulting in Serious Bodily Injury (Count 5) in violation of 18 U.S.C. §§ 1153, 113(a)(6).

1 The Defendant understands that the maximum statutory penalty for  
2 Involuntary Manslaughter in violation of 18 U.S.C. §§ 1153, 1112, is eight (8)  
3 years imprisonment; a fine of \$250,000; or both; a term of supervised release of  
4 not more than 3 years; and a \$100 special penalty assessment. The Defendant  
5 understands that the maximum statutory penalty for Assault Resulting in Serious  
6 Bodily Injury in violation of 18 U.S.C. §§ 1153, 113(a)(6), is ten (10) years  
7 imprisonment; a fine of \$250,000; or both; a term of supervised release of not more  
8 than 3 years; and a \$100 special penalty assessment.

9 The Defendant understands that a violation of a condition of supervised  
10 release carries an additional penalty of re-imprisonment for all or part of the term  
11 of supervised release without credit for time previously served on post-release  
12 supervision.  
13

14  
15 2. The Court is Not a Party to the Agreement:

16 The Court is not a party to this Plea Agreement and may accept or reject this  
17 Plea Agreement. Sentencing is a matter that is solely within the discretion of the  
18 Court. The Defendant understands that the Court is under no obligation to accept  
19 any recommendations made by the United States and/or by the Defendant; that the  
20 Court will obtain an independent report and sentencing recommendation from the  
21 U.S. Probation Office; and that the Court may, in its discretion, impose any  
22 sentence it deems appropriate up to the statutory maximums stated in this Plea  
23 Agreement.

24 The Defendant acknowledges that no promises of any type have been made  
25 to the Defendant with respect to the sentence the Court will impose in this matter.  
26 The Defendant understands that the Court is required to consider the applicable  
27 sentencing guideline range, but may depart upward or downward under the  
28 appropriate circumstances.

1 The Defendant also understands that should the sentencing judge decide not  
2 to accept any of the parties' recommendations, that decision is not a basis for  
3 withdrawing from this Plea Agreement or a basis for withdrawing this plea of  
4 guilty.

5  
6 **3. Waiver of Constitutional Rights:**

7 The Defendant understands that by entering this plea of guilty the Defendant  
8 is knowingly and voluntarily waiving certain constitutional rights, including:

- 9 a. The right to a jury trial;  
10 b. The right to see, hear and question the witnesses;  
11 c. The right to remain silent at trial;  
12 d. The right to testify at trial; and  
13 e. The right to compel witnesses to testify.  
14

15 While the Defendant is waiving certain constitutional rights, the Defendant  
16 understands the Defendant retains the right to be assisted through the sentencing  
17 and any direct appeal of the conviction and sentence by an attorney, who will be  
18 appointed at no cost if the Defendant cannot afford to hire an attorney.

19  
20 **4. Elements of the Offenses:**

21 The United States and the Defendant agree that in order to convict the  
22 Defendant of Involuntary Manslaughter, in violation of 18 U.S.C. §§ 1153, 1112,  
23 as charged in Counts 1 through 4 of the Indictment, the United States must prove  
24 beyond a reasonable doubt the following elements:

25 First, the defendant committed an act that might produce death;

26 Second, the defendant acted with gross negligence, defined as wanton or  
27 reckless disregard for human life;

28 Third, the defendant's act was the proximate cause of the death of each

1 victim (F.N., M.B., S.B. and M.U.), each death was the direct result or reasonably  
2 probable consequence of the defendant's act;

3 Fourth, the killing was unlawful,

4 Fifth, the defendant either knew that such conduct was a threat to the lives of  
5 others or knew of circumstances that would reasonably cause the defendant to  
6 foresee that such conduct might be a threat to the lives of others;

7 Sixth, the killing occurred within the exterior boundaries of the Yakama  
8 Nation Indian Reservation, which is considered "Indian Country" under Federal  
9 law; and

10 Seventh, the defendant is an Indian under Federal law.

11 The United States and the Defendant agree that in order to convict the  
12 Defendant of Assault Resulting in Serious Bodily Injury in violation of 18 U.S.C.  
13 §§ 1153, 113(a)(6), as charged in Count 5 of the Indictment, the United States must  
14 prove beyond a reasonable doubt the following elements:  
15

16 First, the defendant assaulted John Doe 2 (E.A.) by driving a vehicle while  
17 under the influence of or affected by intoxicating liquor, marijuana, or any drug;

18 Second, as a result, John Doe 2 (E.A.) suffered serious bodily injury;

19 Third, the assault took place within the exterior boundaries of the Yakama  
20 Nation Indian Reservation, which is considered "Indian Country" under Federal  
21 law; and

22 Fourth, the defendant is an Indian under Federal law.

23  
24 5. Factual Basis and Statement of Facts:

25 On May 7, 2019 law enforcement officers responded to a crash reported  
26 shortly after four in the morning and located at the intersection of U.S. Highway 97  
27 and Larue Road, within the exterior boundaries of the Yakama Nation Reservation.  
28 John Doe 1 was driving a semi tractor/trailer with a flatbed trailer southbound on

1 Highway 97 when the Defendant, Leland James Finley, failed to stop at the stop  
2 sign on Larue Road and drove in front of the semi tractor/trailer, causing the  
3 collision. John Doe 2 (E.A.), had been a passenger in the sport utility vehicle  
4 driven by the Defendant and was ejected from the vehicle. Rescuers determined he  
5 was in critical condition and he was transported to the hospital by helicopter. John  
6 Doe 2 (E.A.) suffered head injuries as well as a fractured humerus, fractured  
7 clavical, fractured scapula, fractured vertebrae, and multiple rib fractures. F.N.,  
8 M.B., S.B. and M.U were also passengers in the sports utility vehicle and were all  
9 determined to be dead at the scene of the crash due to trauma from the collision.  
10 Leland James Finley was trapped in the driver's seat of the sports utility vehicle  
11 and was rescued and transported to the hospital. Multiple alcohol containers were  
12 in the sports utility vehicle and scattered around the scene. Leland James Finley  
13 was interviewed at the hospital by Officer Gabriel Ramos of the Yakama Nation  
14 Police Department. Officer Ramos reported that after having been advised of his  
15 rights, Leland James Finley told Officer Ramos that he and the passengers had  
16 been driving around, drinking beer and driving. Officer Ramos also reported that  
17 Leland James Finley told the officer that he had been driving at the time of the  
18 crash and that he saw the stop sign and the semi tractor/trailer but that he just  
19 wanted to beat the truck. John Doe 1 told law enforcement officers that the sport  
20 utility vehicle seemed to come out of nowhere and pulled immediately in front of  
21 his vehicle. An analysis of the Defendant's blood, drawn at the hospital about five  
22 hours after the crash, showed the presence of alcohol, THC, metabolites of THC,  
23 cocaine, and metabolites of cocaine. The Defendant is an enrolled member of the  
24 Yakama Nation and by this fact and by blood, is considered an "Indian" under  
25 Federal law.  
26

27 This statement of facts does not preclude either party from presenting and  
28 arguing, for sentencing purposes, additional facts which are relevant to the

1 guideline computation or sentencing, unless otherwise prohibited in this  
2 agreement.

3  
4 **6. Waiver of Inadmissibility of Statements:**

5 The Defendant agrees to waive the inadmissibility of statements made in the  
6 course of plea discussions with the United States, pursuant to Fed. R. Crim.  
7 P. 11(f). This waiver shall apply if the Defendant withdraws this guilty plea or  
8 breaches this Plea Agreement. The Defendant acknowledges that any statements  
9 made by the Defendant to law enforcement agents in the course of plea discussions  
10 in this case would be admissible against the Defendant in the United States' case-  
11 in-chief if the Defendant were to withdraw or breach this Plea Agreement.

12  
13 **7. The United States Agrees Not to File Additional Charges:**

14 The United States Attorney's Office for the Eastern District of Washington  
15 agrees not to bring any additional charges against the Defendant based upon  
16 information in its possession at the time of this Plea Agreement and arising out of  
17 Defendant's conduct involving illegal activity charged in the Indictment, unless the  
18 Defendant breaches this Plea Agreement any time before or after sentencing.

19  
20 **8. United States Sentencing Guideline Calculations:**

21 The Defendant understands and acknowledges that the United States  
22 Sentencing Guidelines (hereinafter "U.S.S.G.") are advisory to this case and that  
23 the Court will determine the Defendant's applicable sentencing guideline range at  
24 the time of sentencing.

25 **a. Base Offense Level:**

26 The United States and the Defendant agree to recommend that the base  
27 offense level is 22 pursuant to USSG §2A1.4(a)(2)(B).

28 **b. Specific Offense Characteristics:**



1 The United States and the Defendant agree to recommend that a 4 level  
2 increase in offense level pursuant to USSG § 3D1.4 would apply. The parties  
3 agree to recommend that the Defendant's total offense level would be 26 prior to  
4 adjustment for acceptance of responsibility.

5  
6 **9. Acceptance of Responsibility:**

7 If the Defendant pleads guilty and demonstrates a recognition and an  
8 affirmative acceptance of personal responsibility for the criminal conduct; provides  
9 complete and accurate information during the sentencing process; does not commit  
10 nor is found to have committed any obstructive conduct; and accepts this Plea  
11 Agreement, the United States recommend a two (2) level downward adjustment in  
12 the offense level. U.S.S.G. §3E1.1(a). The United States will recommend a third  
13 point pursuant to U.S.S.G. §3E1.1(b), if the adjusted offense level is sixteen (16),  
14 or greater. The Defendant and the United States agree that the United States may  
15 at its option, and upon written notice to the Defendant, not recommend the three  
16 (3) level downward reduction for acceptance of responsibility if, prior to the  
17 imposition of sentence, the Defendant is charged or convicted of any criminal  
18 offense whatsoever or if the Defendant tests positive for any controlled substance.  
19

20  
21 **10. Criminal History:**

22 The United States and the Defendant understand that the Defendant's  
23 criminal history computation ultimately will be determined by the Court after  
24 review of the Presentence Investigation Report. The United States and the  
25 Defendant have made no agreement and make no representations as to the criminal  
26 history category, which shall be determined after the Presentence Investigation  
27 Report is completed.  
28

1           11. Incarceration:

2           The United States agrees to recommend a term of imprisonment within the  
3 upper half of the applicable guideline sentencing range as found by the Court.

4           The Defendant reserves the right to recommend any legal sentence.

5           The parties agree to recommend that that adjusted total offense level will  
6 result in a guideline sentence of 46-57 months imprisonment.  
7

8           12. Criminal Fine:

9           The United States and the Defendant recommend that no criminal fine be  
10 imposed.  
11

12           13. Restitution:

13           The United States and the Defendant stipulate and agree that, pursuant to 18  
14 U.S.C. §3663, §3663A, and §3664, the Court shall order restitution to all medical  
15 providers, as well as the Crime Victim's Compensation Fund, in an amount not to  
16 exceed \$25,000.00.  
17

18           14. Supervised Release:

19           The United States and the Defendant agree to recommend that the Court  
20 impose a three (3)-year term of supervised release.  
21

22           15. Mandatory Special Penalty Assessment:

23           The Defendant agrees to pay the \$100 mandatory special penalty assessment  
24 for each count (\$500) to the Clerk of Court for the Eastern District of Washington,  
25 at or before sentencing, pursuant to 18 U.S.C. § 3013 and shall provide a receipt  
26 from the Clerk to the United States at sentencing as proof of this payment.  
27  
28



1           16. Payments While Incarcerated:

2           If the Defendant lacks the financial resources to pay the monetary  
3 obligations imposed by the Court, the Defendant agrees to earn the money to pay  
4 toward these obligations by participating in the Bureau of Prisons' Inmate  
5 Financial Responsibility Program.  
6

7           17. Additional Violations of Law Can Void Plea Agreement:

8           The Defendant and the United States agree that the United States may at its  
9 option and upon written notice to the Defendant, withdraw from this Plea  
10 Agreement or modify its recommendation for sentence if, prior to the imposition of  
11 sentence, the Defendant is charged or convicted of any criminal offense  
12 whatsoever or if the Defendant tests positive for any controlled substance.  
13

14           18. Effect on Immigration Status:

15           The Defendant recognizes that pleading guilty may have consequences with  
16 respect to his immigration status if he is not a citizen of the United States. Under  
17 federal law, a broad range of crimes are removable offenses, including the offense  
18 to which the Defendant is pleading guilty. Indeed, due to the charge to which  
19 Defendant is pleading guilty, removal is presumptively mandatory for non-citizens.  
20 Removal and other immigration consequences are the subject of a separate  
21 proceeding, however, and Defendant understands that while deportation and/or  
22 removal appears to be a virtual certainty if he is a non-citizen, no one, including his  
23 attorney or the Court, can predict with absolute certainty the effect of his  
24 conviction on his immigration status, if any. Defendant nevertheless affirms that  
25 he wants to plead guilty regardless of any immigration consequences that his plea  
26 may entail, even if automatic removal from the United States is a virtual certainty  
27  
28

1 if he is a non-citizen.

2  
3 19. Appeal Rights

4 The Defendant expressly waives his right to appeal any aspect of his  
5 conviction and sentence imposed by the Court. Furthermore, the Defendant  
6 expressly waives his right to file any post-conviction motion attacking his  
7 conviction and sentence, including a motion pursuant to 28 U.S.C. § 2255, except  
8 one based upon ineffective assistance of counsel based on information not now  
9 known by Defendant and which, in the exercise of due diligence, could not be  
10 known by Defendant by the time the Court imposes the sentence.

11 The Defendant acknowledges that this waiver shall result in the dismissal of  
12 any appeal or collateral attack the defendant might file challenging the conviction  
13 or sentence in this case, except for ineffective assistance of counsel as noted above.  
14 If the Defendant files a notice of appeal, a habeas petition, or other collateral  
15 attack, notwithstanding this agreement, the Defendant agrees that this case shall,  
16 upon motion of the government, be remanded to the district court to determine  
17 whether Defendant is in breach of this agreement and, if so, to permit the  
18 government to withdraw from the Plea Agreement.

19  
20  
21 20. Integration Clause:

22 The United States and the Defendant acknowledge that this document  
23 constitutes the entire Plea Agreement between the United States and the  
24 Defendant, and no other promises, agreements, or conditions exist between the  
25 United States and the Defendant concerning the resolution of the case. This Plea  
26 Agreement is binding only upon the United States Attorney's Office for the  
27 Eastern District of Washington, and cannot bind other federal, state or local  
28 authorities. The United States and the Defendant agree that this agreement cannot

1 be modified except in a writing that is signed by the United States and the  
2 Defendant.

3  
4 Approvals and Signatures

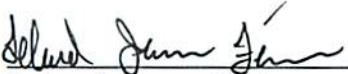
5 Agreed and submitted on behalf of the United States Attorney's Office for  
6 the Eastern District of Washington.

7  
8 Vanessa R. Waldref  
9 United States Attorney

10   
11 Michael D. Murphy  
12 Assistant United States Attorney

11/23/2021  
Date

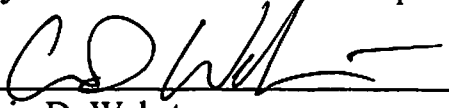
13  
14 I have read this Plea Agreement and have carefully reviewed and discussed  
15 every part of the agreement with my attorney. I understand and voluntarily enter  
16 into this Plea Agreement. Furthermore, I have consulted with my attorney about  
17 my rights, I understand those rights, and I am satisfied with the representation of  
18 my attorney in this case. No other promises or inducements have been made to  
19 me, other than those contained in this Plea Agreement, and no one has threatened  
20 or forced me in any way to enter into this Plea Agreement. I am agreeing to plead  
21 guilty because I am guilty.

22  
23   
24 Leland James Finley  
25 Defendant

11/23/21  
Date

26  
27 I have read the Plea Agreement and have discussed the contents of the  
28

1 agreement with my client. The Plea Agreement accurately and completely sets  
2 forth the entirety of the agreement between the parties. I concur in my client's  
3 decision to plead guilty as set forth in the Plea Agreement. There is no legal reason  
4 why the Court should not accept the Defendant's plea of guilty.

5   
6 \_\_\_\_\_  
7 Craig D. Webster  
8 Attorney for the Defendant

11/21/21  
\_\_\_\_\_  
Date